

## **REMARKS / ARGUMENTS**

### **I. General Remarks and Disposition of the Claims**

Please consider the application in view of the foregoing amendments and the following remarks. Applicants thank the Examiner for his careful consideration of this application.

At the time of the Office Action, claims 1, 3-19, 21-28, 30, 32-36, 38-42, 44, 56, 58-62, 64-73, 82-100, and 102-111 were pending. Claims 1, 3-19, 21-28, 30, 32-36, 38-42, 44, 56, 58-62, 64-73, 82-100, and 102-111 were rejected in the Office Action. By this paper, claims 13-14, 30, 56, 68-69, 82, 95, and 106-107 have been amended. These amendments are supported by the specification as filed. All the amendments are made in a good faith effort to advance the prosecution on the merits of this case. It should not be assumed that the amendments made herein were made for reasons related to patentability. Upon entry of these amendments, claims 1, 3-19, 21-28, 40, 32-36, 38-42, 44, 56, 58-62, 64-73, 82-100, and 102-111 will remain pending and are believed to be in condition for allowance. Applicants respectfully request that the above amendments be entered and further request reconsideration in light of the amendments and remarks contained herein.

### **II. Remarks Regarding Double-Patenting Rejections**

Claims 1, 3-12, 14, 15, 17, 19, 21-28, 30-42, 44, 56, 58-67, 69, 70, 72, 82, 83, 85-93, 95-105, 107, 108 and 110 stand provisionally rejected on the ground of nonstatutory obviousness-type double patenting as being unpatentable over claims 1-20 of copending Application No. 11/183,122 and claims 1-20 of copending Application No. 11/183,123. Although Applicants do not necessarily agree with the Examiner's rejection, Applicants submit herewith a properly executed terminal disclaimer in regard to the cited references. Accordingly, Applicants respectfully submit that the double-patenting rejections over these applications have been overcome, and respectfully request the withdrawal of these rejections.

### **III. Remarks Regarding Rejections Under 35 U.S.C. § 102(b)**

Claims 30, 36, 38-40, 56, 64-70, 72, 82, 83, 95, 102-108, and 110 stand rejected as anticipated by U.S. Publication No. 2002/0149656 to Nohr et al. ("Nohr"). With respect to this rejection, the Office Action mailed March 5, 2007 states:

Nohr teaches a fluid which comprises water, a silica-polyvinylpyrrolidone nanoparticle and sodium chloride (see

example 30). The salt would also act as a weighting agent, as in claim 69. The coated particle is still in the form of a nano particle, and would thus be encompassed by the polyvinyl pyrrolidone nanoparticle source as claimed herein. Applicants intended use as a drilling fluid does not distinguish . . . With respect to claim 30, since water can be used as a drilling fluid no distinction is seen.

(Office Action Mailed 03/05/07 at page 3.) With respect to this rejection, the Office Action mailed August 23, 2007 states:

Applicants principal argument is that the claims have been amended to recite a concentration range for the nanoparticle source and that Nohr does not teach this range. However, Examiner respectfully draws Applicant attention to paragraph [0096] on page 12 of Nohr, wherein Nohr disclose ranges for the concentrations of the compositions components, including 20 to 95% wt. for water and 0.5 to 20% for co-solvents and, thus the remainder of the composition to include, *inter alia*, the nanoparticles.

Accordingly, Nohr is disclosing the nanoparticles can be present in very miniscule amounts, e.g., less than 5%, if water is present at 95%, and even less if co-solvents are present in the composition.

Thus, the instant claims, as amended, remain anticipated by Nohr.

(Office Action Mailed 08/23/07 at pages 3-4.) Applicants respectfully disagree. Anticipation can be established only when every element of the claim is disclosed by a single prior art reference. *Manual of Patent Examining Procedure* § 2131 (hereinafter "MPEP"). Because Nohr does not disclose each and ever recitation of the present claims, Applicants respectfully submit that Nohr does not anticipate the claims.

First, Nohr does not disclose the step of "placing the drilling fluid in a well bore," as recited by independent claim 30, as amended. Rather, Nohr is directed to inks that contain nanoparticles. Nohr, ¶ [0002]. For instance, the Summary of the Invention section of Nohr provides that "[t]he present invention is directed to, among other things, new recording mediums, new inks, ink compositions, nanoparticles, methods of making and using nanoparticles, methods for stabilizing colorants against photodecomposition, and methods for stabilizing colorants against oxidation or reduction." *Id.* ¶ [0012]. Thus, Nohr does not disclose a method that comprises

placing a drilling fluid into a well bore, as recited by independent claim 30. Accordingly, Nohr does not anticipate independent claim 30 and its dependent claims.

Second, Nohr does not disclose “[a] drilling fluid comprising an aqueous-based fluid, a bridging agent, and a shale inhibiting component comprising a polyvinyl pyrrolidone nanoparticle source,” as recited by independent claim 56, as amended. Rather, as noted above, Nohr is directed inks that comprise nanoparticles. Nothing in Nohr discloses that the ink would contain the required bridging agent. Accordingly, Nohr does not anticipate independent claim 56 and its dependent claims.

Third, Nohr does not disclose a drilling fluid comprising a polyvinyl pyrrolidone nanoparticle source, “wherein the polyvinyl pyrrolidone nanoparticle source comprises crosslinked polyvinyl pyrrolidone,” as recited by independent claim 82, as amended. Rather, Nohr discloses inks that contain silica nanoparticles treated with a low molecular weight polyvinyl pyrrolidone. Nohr, ¶ [0141]. Nohr does not disclose treating the silica nanoparticles with crosslinked polyvinyl pyrrolidone. Accordingly, Nohr does not disclose the required crosslinked polyvinyl pyrrolidone and, thus, cannot anticipate independent claim 82 and its dependent claims.

Fourth, Nohr does not disclose a drilling fluid comprising “a weighting agent,” as recited by independent claim 95, as amended. Rather, as noted above, Nohr is directed to inks that comprise nanoparticles. Nothing in Nohr discloses that the ink would contain the required weighting agent. However, the Examiner is apparently alleging that sodium chloride dissolved in water is a weighting agent. (Office Action Mailed 03/05/07 at page 3.) While dissolved salts may increase the density of a drilling fluid, those of ordinary skill in the art would understand that dissolved salts are not considered weighting agents. Rather, weighting agents are finely ground solid materials such as barium sulfate. Indeed, in the context of the specification, salts and weighting agents are clearly separate drilling-fluid additives. Specification, ¶ [0026]. For example, the specification distinguishes salts and weighting agents as follows, “[o]ne of ordinary skill in the art with the benefit of this disclosure also will recognize where it is desirable to use a dense brine rather than achieve density with a solid weighting agent.” Accordingly, the dissolved salt in Nohr is clearly not the required weighting agent, and, thus, Nohr cannot anticipate independent claim 95 and its dependent claims.

Fifth, Nohr does not disclose a drilling fluid comprising “polyvinyl pyrrolidone nanoparticles,” as recited by independent claim 95, as amended. Rather, Nohr discloses ink that contains silica nanoparticles treated with a low molecular weight polyvinyl pyrrolidone. Nohr, ¶ [0141]. Applicants respectfully submit that the silica nanoparticles treated with polyvinyl pyrrolidone should not be correlated with the polyvinyl pyrrolidone nanoparticles of claim 95. Indeed, the polyvinyl pyrrolidone of Nohr is not in the form of nanoparticles. Accordingly, Nohr does not disclose polyvinyl pyrrolidone nanoparticles and, thus, cannot anticipate independent claim 95 and its dependent claims.

Therefore, Applicants respectfully assert that independent claims 30, 56, 82, and 95 and their respective dependent claims are not anticipated by Nohr. Accordingly, Applicants respectfully request withdrawal of this rejection with respect to claims 30, 36, 38-40, 56, 64-70, 72, 82, 83, 95, 102-108, and 110.

#### **IV. No Waiver**

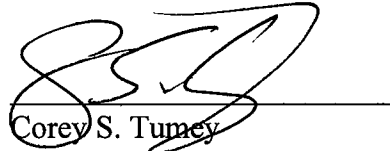
All of Applicants’ arguments and amendments are without prejudice or disclaimer. Additionally, Applicants have merely discussed example distinctions from the cited references. Other distinctions may exist, and Applicants reserve the right to discuss these additional distinctions in a later Response or on Appeal, if appropriate. By not responding to additional statements made by the Examiner, Applicants do not acquiesce to the Examiner’s additional statements, such as, for example, any statements relating to what would be obvious to a person of ordinary skill in the art.

**SUMMARY**

In light of the above amendments and remarks, Applicants respectfully request reconsideration and withdrawal of the outstanding rejections. Applicants further submit that the application is now in condition for allowance, and earnestly solicit timely notice of the same. Should the Examiner have any questions, comments or suggestions in furtherance of the prosecution of this application, the Examiner is invited to contact the attorney of record by telephone, facsimile, or electronic mail.

Appellants have authorized the Commissioner to debit the requisite fee of \$130 for the terminal disclaimer filed herewith from the deposit account (Baker Botts L.L.P.'s Deposit Account No. 02-0383, Order Number 063718.0358) provided via the electronic filing system. Applicants believe that no additional fees are due in association with the filing of this response. Should the Commissioner deem that any fees are due, including any fees for extensions of time, Applicants respectfully request that the Commissioner accept this as a Petition Therefor, and direct that any additional fees be charged to Baker Botts, L.L.P.'s Deposit Account No. 02-0383, Order Number 063718.0358.

Respectfully submitted,



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